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State of California
DEPARTMENT OF JUSTICE



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October 1, 2019

VIA EMAIL

Taylor Amarel
MuckRock News
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RE: Public Records Act Request No. 2019-02133

Dear Mr. Amarel:

This letter responds to your request for records under the California Public Records Act (Gov. Code, § 6250 et seq.), received on September 5, 2019. Specifically, your request stated:

“I would like to obtain all emails sent to, from, or copied to Xavier Becerra, from January 1, 2016 to Present Day containing the non-case-sensitive key-string ‘Harris’ or ‘Kamala’.”

As permitted by statute, on September 16, 2019, we notified you that the California Department of Justice (Department) was extending the time to respond to your request. (Gov. Code, § 6253.)

Your request appears to be asking for Attorney General Becerra’s emails regarding former Attorney General Kamala Harris. Accordingly, enclosed are records responsive to your request. However, records exempt under the Act have been redacted or withheld under the following exemptions:

Deliberative Process Privilege

The deliberative process privilege exempts from disclosure materials that would expose an agency’s decision-making process in such a way as to discourage candid discussion within the agency and thereby undermine the agency’s ability to perform its functions. (*Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325, 1342-1343, 1346.) Records that reveal deliberative processes are protected through application of Government Code section 6255. Any documents containing statutory interpretation, analyses, draft language, and memoranda concerning the

strengths and weaknesses of a particular proposal would be covered by this privilege. Even if the content of a document is purely factual, it is nonetheless exempt from public scrutiny if it is actually related to the process by which policies are formulated or, if it is inextricably intertwined with policymaking processes. (*Id.* at p. 1342.) If the public interest in nondisclosure clearly outweighs the public interest in disclosure, the deliberative process privilege applies. (*Cal. First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 172-173.) Memoranda from Department attorneys containing legal interpretation, analysis, and the strengths and weaknesses of pursuing a particular course of action fall within the deliberative process privilege, and are not subject to disclosure.

Personal Privacy Exemption

Article I, section 1 of the California Constitution guarantees the right to personal privacy. (Cal. Const., art. I, §1.) In providing the records requested, we have redacted or withheld certain private identifying information, such as non-commercial addresses, email addresses, and telephone numbers, along with other sensitive personal information such as medical conditions. (Cal. Const., art. I, §1, as incorporated into the Act by Gov. Code, § 6254, subd. (k); Gov. Code, § 6255.)

This completes our response to your request.

Sincerely,

/s/ Jerry T. Yen

JERRY T. YEN
Deputy Attorney General

For XAVIER BECERRA
Attorney General